



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Gayle Lephart
Registered Agent
11-2001 LLC
3333 N Main Street,
Jacksonville, FL 32206

AUG 19 2009

RE: MUR 6054

Dear Ms. Lephart:

On June 23, 2009, the Federal Election Commission found that there is reason to believe 11-2001 LLC d/b/a Hyundai of North Jacksonville ("HNJ") knowingly and willfully violated 2 U.S.C. §§ 441f, 441a(a) or 441b(a), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). This finding was based on information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2). The Factual and Legal Analysis, which more fully explains the Commission's findings, is attached for your information.

HNJ may submit any factual or legal materials that it believes are relevant to the Commission's consideration of this matter. Statements should be submitted under oath.

| In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

Please note that HNJ has a legal obligation to preserve all documents, records and materials relating to this matter until such time as HNJ is notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

| If HNJ intends to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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If HNJ is interested in pursuing pre-probable cause conciliation, it should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless HNJ notifies the Commission in writing that it wishes the investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Jack Gould, the attorney assigned to this matter, at (202) 694-1650.

On behalf of the Commission,


Steven T. Walther
Chairman

Enclosures
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

Respondent: 11-2001 LLC d/b/a Hyundai of North Jacksonville MUR 6054

I. INTRODUCTION

This matter was generated based on information ascertained by the Federal Election Commission ("Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2). The available information indicates that 11-2001 LLC d/b/a Hyundai of North Jacksonville ("HNJ") reimbursed nine individuals, including employees and family members, for their contributions to Vern Buchanan for Congress ("the Committee") totaling \$52,000. The reimbursements spanned a two-year period, from November 2005 through December 2007.

II. FACTUAL AND LEGAL ANALYSIS

A. Contributions in the Name of Another

The Federal Election Campaign Act of 1971, as amended, ("the Act") prohibits persons, including partnerships and corporations, from making a contribution in the name of another person. 2 U.S.C. § 441f. The available information indicates that HNJ gave money to employees to make contributions in their names and the names of family members to the Committee. Thus, HNJ made contributions to the Committee disguised as contributions from HNJ employees and their families. Accordingly, there is reason to believe that HNJ violated 2 U.S.C. § 441f.

1 **B. Excessive Contributions by a Partnership**

2 HNJ was established in the State of Florida as a Limited Liability Company ("LLC").

3 An LLC that elects to be treated by the Internal Revenue Service ("I.R.S.") as a partnership is
4 considered a partnership under the Act. See 11 C.F.R. § 110.1(g). A partnership may make
5 contributions to a candidate for federal office. Such contributions may not exceed in the amount
6 specified in 2 U.S.C. § 441a(a)(1)(A). During the 2006 election cycle, the contribution limit was
7 \$2,100. During the 2008 election cycle, the contribution limit was \$2,360. HNJ made \$52,000
8 in contributions to the Committee during the 2006 and 2008 election cycles, which exceeded the
9 Act's contribution limits for those election cycles. Thus, if HNJ has elected to be treated by the
10 I.R.S. as a partnership, there is reason to believe that it violated 2 U.S.C. § 441a(a) by making
11 contributions to the Committee in excess of the allowable limits for the 2006 and 2008 election
12 cycles.

13 **C. Prohibited Contributions by a Corporation**

14 An LLC that elects to be treated by the I.R.S. as a corporation is considered a corporation
15 under the Act. See 11 C.F.R. § 110.1(g). The Act prohibits corporations from making
16 contributions to candidates for federal office. See 2 U.S.C. § 441b(a). Thus, if HNJ has elected
17 to be treated by the I.R.S. as a corporation, there is reason to believe it violated 2 U.S.C.
18 § 441b(a) by making prohibited contributions to the Committee.

19 **D. Knowing and Willful Violations**

20 HNJ's activity raises the question of whether its violations may have been knowing and
21 willful. The Act also addresses violations that are knowing and willful. See 2 U.S.C.
22 § 437g(a)(5)(B). The phrase "knowing and willful" indicates that "acts were committed with full

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1 knowledge of all the relevant facts and a recognition that the action is prohibited by law...."
2 122 Cong. Rec. H3778 (daily ed. May 3, 1976); *see also* *AFL-CIO v. FEC*, 628 F.2d 97-98, 101-
3 02 (D.C. Cir.), *cert. denied*, 449 U.S. 982 (1980) (noting that a "willful" violation includes "such
4 reckless disregard of the consequences as to be equivalent to a knowing, conscious, and
5 deliberate flaunting of the Act," but concluding on the facts before it that this standard was not
6 met); *National Right to Work Comm. v. FEC*, 716 F.2d 1401, 1403 (D.C. Cir. 1983) (*same*).

7 By contributing \$52,000 of company money to the Committee through other persons,
8 HNJ disguised itself as the source of the contributions, and, to the extent HNJ was permitted to
9 make any contributions to the Committee, HNJ gave several times the permissible limit over the
10 course of two election cycles. These facts strongly suggest an attempt to circumvent the law. An
11 inference of knowing and willful conduct may be drawn "from the defendant's elaborate scheme
12 for disguising" his or her actions. *See United States v. Hopkins*, 916 F.2d 207, 214-15 (5th Cir.
13 1990) (defendants were active in deciding how to reimburse employees with corporate funds for
14 their contributions). The available information indicates that there is reason to believe that HNJ
15 knowingly and willfully violated the Act.

16 **III. CONCLUSION**

17 Based on the foregoing, the Commission finds there is reason to believe that
18 11-2001 LLC d/b/a Hyundai of North Jacksonville knowingly and willfully violated 2 U.S.C.
19 §§ 441f and 441a(a) or 441b(a).

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